REMARKS

This Amendment is being filed in response to the Office Action of July 15, 2003 that issued in parent Patent Application No. 10/029,831. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-22 were pending in this application. Claims 10, 16, and 18 are canceled by this amendment, without prejudice. Claim 23 is added by this amendment. Claims 1, 8, 14, 21, 22, and 23 are independent claims.

In the Office Action, Claims 1-3, 8-10, 13-16, and 19-22 are rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,175,632 to Marx ("Marx").

As stated in the previous Office Action, the art utilized in the 35 U.S.C. §102(e) rejection (Marx) shows a system for tracking the beat and tempo selectively from an audio device using a panel lighting device, such as LED displays 42, 44 (see, Marx, FIG. 1, and the accompanying description contained in Col. 7, lines 26-38). In an alternate embodiment shown in FIG. 7A, Marx shows a front panel 124 intended for integration onto a front panel of a compact disk (CD) player. The front panel has dual channels and corresponding numerous displays utilized again for indicating qualities of the music from the CD player, such as beat LEDs 42 (see, Marx, Col. 17, lines 38-67), marching bar graphs 170 (see,

Marx, Col. 18, lines 1-6), temp-difference graph 158 (see, Marx, Col. 18, lines 9-11), etc. As should be clear, the Marx system is a system utilized by a disc jockey (see, Marx, Col. 3, lines 9-11) or other music technician to provide visual information about currently played music to assist in the mixing of one song to another or as a driver for a strobe light (see, Marx, Col. 3, lines 5-9).

There is no suggestion that this Marx system is intended or suitable for other types of lighting uses, such as controlling area lighting, within the four corners of Marx. In fact, the Applicants contend that Marx is not even a related area of technology. A person skilled control of area lighting devices would not even turn to a reference that referred to controlling a mixing light for the front panel of an audio device.

However, leaving that aside, it "is axiomatic that for prior art to anticipate under § 102 it has to meet every element of the claimed invention ..." (See, Hybritech Inc. v. Monoclonal Antibodies, Inc. 802 F.2d 1367, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986).) "[A]n anticipation rejection requires a showing that each limitation of the claim must be found in a single reference, practice, or device." (See, In re Donahue, 766 F.2d 531, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985.)

Yet, page 2 of the Office Action admits that within Marx, "the processor (6 team) is silent of adjust[ing] the area lighting

device, but it is functional as a means to analyze and adjust the area lighting device when user activity is identified." Accordingly, it is clear that a 35 U.S.C. §102(e) is inappropriate when the reference is "silent" as to a feature of the claim.

Further, even a rejection under 35 U.S.C. §103 requires the inventive features to be disclosed or suggested. The mere fact that the prior art device could be modified so as to produce the claimed device is not a basis for an obviousness rejection unless the prior art suggested the desirability of the modification. See, In re Gordon, 733 F.2d 900, 902 (Fed, Cir. 1984); and In re Laskowski, 871 F.2d 115, 117 (Fed. Cir. 1989). Clearly, since Marx is directed at controlling an audio device display, it could not be said that Marx suggests controlling an area lighting device. In fact, the Applicants have reviewed the four corners of Marx in great detail and have found no such suggestion within Marx. Clearly, one may not utilize the teachings of the present patent application to suggest modifications to Marx and thereby, render the present Claims unallowable.

It is therefore respectfully submitted that Claims 8, 9, 11-15, 17, 19-22 are allowable over Marx and an indication to that effect is respectfully requested.

Further, since Marx only discusses utilizing audio information from an audio data source, Marx can not be said to disclose or suggest (emphasis provided) "analyzing video information focused on

a monitored area to identify at least one predefined user activity; and adjusting said lighting device when said user activity is identified" as required by Claim 1. Accordingly, it is respectfully submitted that Claim 1 is allowable over Marx and an indication to that effect is respectfully requested.

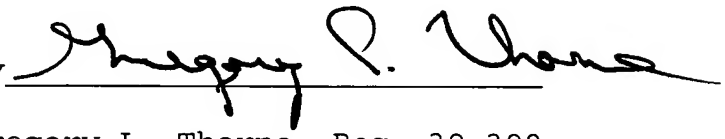
Claims 2-7 are dependent on Claim 1 and are allowable for at least that reason as well as for the separately patentable elements contained therein. Accordingly, allowance of Claims 2-7 is respectfully requested.

Claim 23 requires "means for establishing at least one rule defining a predefined user activity, said rule including at least one condition and an action item to be performed to automatically adjust said lighting device when said rule is satisfied; means for analyzing at least one of audio and video information focused on a monitored area to identify said condition; and means for producing an output to perform said action item if said rule is satisfied, wherein said user activity is one of a predefined gestural command and a ritualistic behavior and said action item is the issuance of a corresponding command to control said lighting device in a desired manner" and is therefore also allowable over Marx. And indication as to the allowance of Claim 23 is also respectfully requested.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Early and favorable action is earnestly solicited.

Respectfully submitted,

By 

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